

U.S. Department of Justice



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April 23, 2025

BY ECF

The Honorable Lewis J. Liman
United States District Court
Southern District of New York
500 Pearl Street, Courtroom 15C
New York, NY 10007

Re: *Metropolitan Transportation Authority, et al. v. Duffy, et al.*, No. 25 Civ. 1413
(LJL)

Dear Judge Liman:

This Office represents defendants Sean Duffy, in his official capacity as Secretary of the United States Department of Transportation (“DOT”), Gloria M. Shepherd, in her official capacity as Executive Director of the Federal Highway Administration (“FHWA”), DOT, and FHWA (together the “Federal Defendants”) in the above-referenced matter. We write respectfully in accordance with the Court’s April 9, 2025 Order directing Defendants to inform the Court “whether they anticipate the administrative record to include any documents other than Secretary Duffy’s letter dated February 19 2025.” ECF No. 57. We also include herein an update regarding recent developments relevant to this matter.

As the Parties previously advised, FHWA extended the deadline for New York to cease collection of tolls under the New York Central Business District Tolling Program (“CBDTP”) and to provide information about the cessation of tolling until April 20, 2025. *See* ECF No. 49 at 11. New York did not respond to FHWA’s request for information by April 20, 2025. Thus, on April 21, 2025, Secretary Duffy sent a letter to New York Governor Kathy Hochul directing the New York State Department of Transportation (“NYSDOT”) to “submit a response to FHWA’s New York Division Administrator that either: (1) certifies that the collection of tolls under the CBDTP has ceased; or (2) demonstrates that the continued collection of tolls does not violate 23 U.S.C. § 301” by May 21, 2025. *See* April 21, 2025 Letter, attached hereto as Exhibit A. The letter further advises that if, after evaluating the response from NYSDOT and any responses from TBTA and NYCDOT, FHWA makes a determination that New York is out of compliance with 23 U.S.C. § 301, it may take certain measures to bring New York into compliance beginning on or after May 28, 2025.

At this juncture, Federal Defendants can confirm that the administrative record will include several documents in addition to Secretary Duffy’s February 19, 2025 letter.¹ As noted above,

¹ The Federal Defendants expect that, among other things, the entirety of the administrative record (including supplements) submitted in connection with the Court’s review of the NEPA analysis

however, the agency decision-making process is ongoing. Accordingly, Federal Defendants have determined that the administrative record cannot be compiled in full until the completion of that process, which will include an opportunity for FHWA to review and consider any materials submitted by NYSDOT, TBTA, and/or NYCDOT by the May 21, 2025 deadline prior to making a final determination as to whether the collection of tolls under the CBDTP violates 23 U.S.C. § 301.

Given these developments, Federal Defendants agree to confer with Plaintiffs and Intervenor Plaintiffs regarding how these developments will impact the case schedule previously entered by the Court, ECF No. 57.

Thank you for your attention to this matter.

Respectfully,

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will be included in the administrative record in this matter. In the interest of efficiency, Federal Defendants intend to maintain the bates numbering of the administrative record previously submitted in *Mulgrew, et al. v. U.S. Dep't of Transp., et al.*, No. 24 Civ. 1644 (LJL), *New Yorkers Against Congestion Pricing Tax, et al. v. U.S. Dep't of Transp., et al.*, No. 24 Civ. 367 (LJL), and *Chan, et al. v. U.S. Dep't of Transp., et al.*, No. 23 Civ. 10365 (LJL).